

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

Filed: September 9, 2021

MARK WOODWARD,

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Petitioner,

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No. 21-730V

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v.

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Special Master Dorsey

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SECRETARY OF HEALTH

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AND HUMAN SERVICES,

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Respondent.

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ORDER CONCLUDING PROCEEDINGS¹

On January 13, 2021, Mark Woodward (“petitioner”) filed a petition for compensation under the National Vaccine Injury Compensation Program (“Vaccine Act” or “the Program”), 42 U.S.C. § 300aa-10 et seq. (2012).² Petitioner alleged that he suffered a shoulder injury related to vaccine administration (“SIRVA”) as a result of an influenza (“flu”) vaccination on December 23, 2020. Petition at Preamble (ECF No. 1).

This case was reassigned to the undersigned on February 16, 2021. Notice of Reassignment dated Feb. 16, 2021 (ECF No. 7). Thereafter, the undersigned issued an order staying the case because petitioner could not meet the severity requirement under §300aa-

¹ The undersigned intends to post this Order on the United States Court of Federal Claims’ website. **This means the Order will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access. Because this Order contains a reasoned explanation for the action in this case, undersigned is required to post it on the United States Court of Federal Claims’ website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services).

² The National Vaccine Injury Compensation Program is set forth in Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755, codified as amended, 42 U.S.C. §§ 300aa-10 to -34 (2012). All citations in this Order to individual sections of the Vaccine Act are to 42 U.S.C. § 300aa.

11(c)(1)(D). Order Staying Case dated Feb. 17, 2021 (ECF No. 8). The stay was lifted on June 24, 2021. Order Lifting Stay dated June 24, 2021 (ECF No. 10). As explained in the undersigned's order, petitioner was to file applicable medical records to support his petition. Id. at 1-2. The undersigned gave petitioner until August 23, 2021 to file medical records. Id. at 2.

On July 28, 2021, a consented motion to substitute John R. Howie as counsel was filed. Consented Motion to Substitute Attorney of Record, filed July 28, 2021 (ECF No. 14). On August 24, 2021, the undersigned issued an order directed petitioner to file medical records after petitioner missed his court-imposed deadline to do so. Order dated Aug. 24, 2021 (ECF No. 16). Petitioner was given a new deadline of September 7, 2021. Id. To date, no medical records have been filed.

On September 7, 2021, petitioner filed a notice of voluntary dismissal, indicating that petitioner elects to voluntarily dismiss his petition without prejudice under Vaccine Rule 21(a)(1)(A) and requesting the Court issue an order concluding proceedings.

Under Vaccine Rule 21, which governs dismissal of a petition, a “[p]etitioner may dismiss the petition without order of the special master or the court by filing: (A) a notice of dismissal at any time before service of respondent’s report.” Vaccine Rule 21(a)(1)(A). Unless stated otherwise, the dismissal is without prejudice. Vaccine Rule 21(a)(2). “A petition dismissed under this subdivision (a) will not result in a judgment pursuant to Vaccine Rule 11 for purposes of 42 U.S.C. § 300aa-21(a).” Vaccine Rule 21(a)(3).

In accordance with Vaccine Rule 21(a), this case is hereby **dismissed without prejudice**. The Clerk of Court is instructed that **judgment shall not enter** in the instant case pursuant to Vaccine Rule 21(a)(3).

IT IS SO ORDERED.

s/Nora Beth Dorsey
Nora Beth Dorsey
Special Master